

City Council Introduction: **Monday**, February 26, 2001
Public Hearing: **Monday**, March 5, 2001, at **1:30 p.m.**

Bill No. 01-36

FACTSHEET

TITLE: **STREET VACATION NO. 00007**, requested by TMCO Investments, Business Properties of Nebraska and Business Properties, Ltd., to vacate H Street from 6th Street west to the railroad and vacated H Street.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan and conditional approval.

ASSOCIATED REQUEST: Bill No. 00R-328 approving a Conservation Easement Agreement, place on Council's pending list on 12/11/00.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/14/00
Administrative Action: 06/14/00

RECOMMENDATION: A finding of conformance with the Comprehensive Plan and conditional approval (9-0: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman, Steward, Krieser and Bayer voting 'yes').

FINDINGS OF FACT:

1. The Planning staff recommendation to find the proposed street vacation to be in conformance with the Comprehensive Plan with conditions of approval is based upon the "Analysis" as set forth on p.3.
2. The applicant's testimony is found on p.5.
3. There was no testimony in opposition.
4. The Planning Commission agreed with the staff recommendation.
5. The administrative final plat required by Condition #1 has been submitted and approved.
6. **Please Note:** This application is related to Bill No. 00R-328 approving a Conservation Easement Agreement, which was placed on Council's pending list on 12/11/00. Bill No. 00R-328 should be removed from the pending list and scheduled for public hearing on March 5, 2001, along with this proposed street vacation.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: February 20, 2001

REVIEWED BY: _____

DATE: February 20, 2001

REFERENCE NUMBER: FS\CC\FSV00007

[illegible]

DATE: June 5, 2000

Vacate 'H' Street from 6th Street west to the railroad and vacated H Street.

APPLICANT:

Business Properties of Nebraska & Business Properties Ltd
P. O. ox 80459
Lincoln, NE 68501

'H' Street west from S. 6th Street to the railroad.

'H' Street from 6th Street west to the railroad and vacated H Street, located in the northwest quarter of Section 26, Township 10 North, Range 6 East of the 6th P.M. Lincoln, Lancaster County, Nebraska.

I-1 Industrial

To expand facilities

24,500 square feet more or less.

ANALYSIS:

1. The Public Works Department recommends conditional approval subject to retaining easements:

a permanent easement on the north half of the right-of-way for an existing 36"x 40" storm sewer.

An LES easement on the entire vacated area for existing and future facilities.

2. Public Works & Utilities is requiring the petitioners to remove the existing street return at their own cost. The estimated cost is \$5,000.
3. The area is located in the 100 year floodplain. The street has been filled without a permit that allows fill in the floodplain and without permission by the City to place fill in the street.
4. A conservation easement that restricts the use of the property to a parking lot or other open space uses and prohibits fill should be required.

The City has retained a conservation easement on other recent street and alley vacations which were located in the 100 year floodplain.

The Comprehensive Plan supports conservation easements that maintain the capacity of the floodways and floodplains to contain and carry flood water and prevent damage.

5. This street is not shown on the Future Functional Street and Road Classification map in the Comprehensive Plan.
6. The vacation will leave Lots 8-11, Block 133 and Lots 2-5, Block 142 with no street frontage. Rick Peo, City Law Department requires that the owners submit an administrative final plat and that the plat receives approval prior to scheduling the street vacation on the City Council agenda.

STAFF RECOMMENDATION:

- 1) The proposed vacation conforms with the 1994 Comprehensive Plan provided the fill is removed and a conservation easement is retained by the City at the time the title is transferred.
- 2) Conditional Approval of the Vacation.

Conditions:

1. Prior to scheduling the vacation on the City Council agenda the owners shall submit and receive approval of an administrative final plat that combines the lots on each side of "H" Street into a single lot that has street frontage.

2. Retain the utility easements as requested by the Public Works and Utilities Department and the Lincoln Electric System and create a permanent conservation easement in favor of the City of Lincoln.
3. The petitioners remove fill.
4. The petitioners remove the existing street return at their own cost.

Prepared by:

Ray Hill
Planner

STREET VACATION NO. 00007

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 14, 2000

Members present: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman, Steward, Krieser and Bayer.

Proponents

1. **Penny Berger** represented the applicant and appeared to answer any questions. This is a great project. The client is expanding their manufacturing facilities. It will increase employment for the City. The City plat maps had shown "H" Street as vacated back in 1913, but they found out that it actually was not vacated. The applicant, TMCO, is a very high end machine tool and die manufacturing facility doing precision machining of precision parts for companies all over the world, with a couple of side businesses such as walking sprinklers and scientific ovens for testing of cereal products.

Carlson noted that there was some construction activity going on at this location already. It looks like there has been some earth moved. Berger acknowledged that it was the earth they put on "H" Street when they thought it was vacated. The expanded area will be used for parking. It should not affect the floodplain because cars can be parked in the floodplain.

There was no testimony in opposition.

Hunter asked staff to respond to the fill that is occurring that no one seems to know how it happened. Ray Hill of Planning staff suggested that this is a question that would need to be addressed to the applicant. It is his understanding that the applicant believed that they owned the land and were filling when in fact it was still city right-of-way. They should have received a permit from the city to place fill in the 100-year floodplain. If the applicant agrees to the conditions of approval of this street vacation, Hill believes the issue of fill can get back into the proper perspective.

Steward asked whether this area of that street has ever been used as a street. Hill clarified that it is still owned by the city and it is a platted street. The applicant believed it was vacated. But, beyond current memory, Steward suggested that this has not been used as a street. Hill did not know.

Response by the Applicant

Berger displayed a plat map that showed "H" Street as being vacated under Ordinance No. 1303, so the city plat map was in error and that is why they thought it had already been vacated. Berger demonstrated on the map the ownership of the property abutting the vacation request. Weathercraft is joining the petition. G Street is also vacated. It is all industrial uses in the area.

Public hearing was closed.

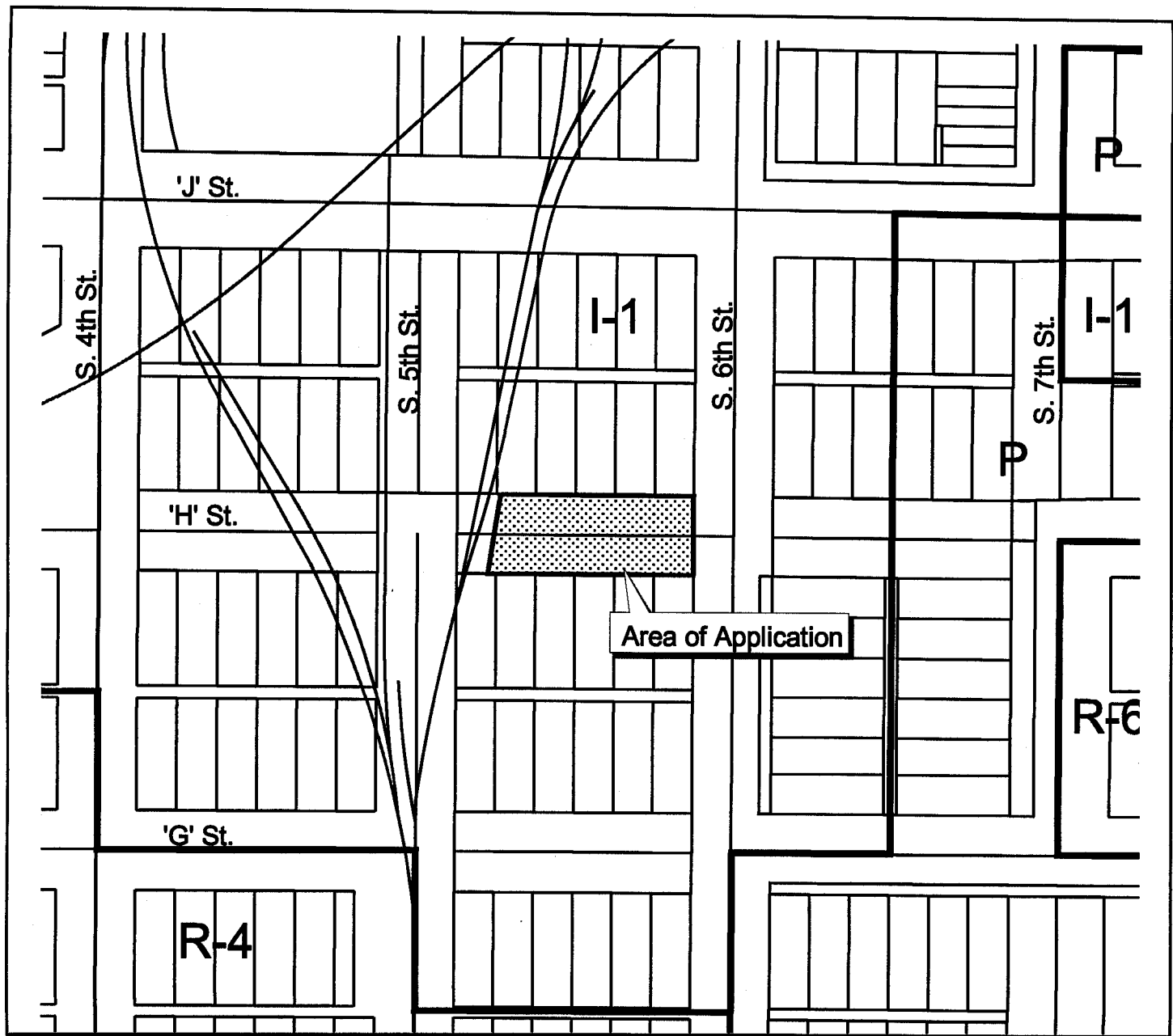
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 14, 2000

Duvall moved approval, with conditions, seconded by Schwinn.

Duvall knows this business and they do an excellent job. They have a very good reputation and they do need to expand.

Motion for approval, with condition, carried 9-0: Taylor, Hunter, Schwinn, Carlson, Duvall, Newman, Steward, Krieser and Bayer voting 'yes'.

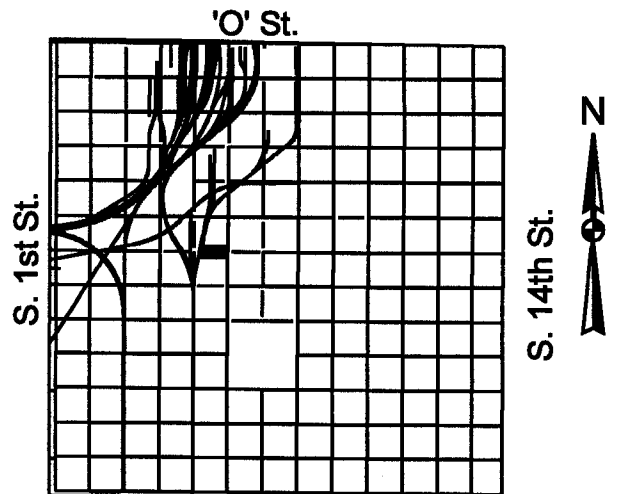
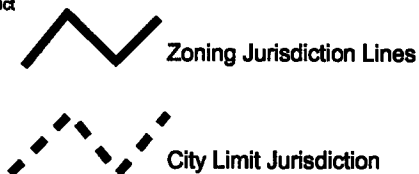


Street & Alley Vacation #00007 **'H' St., between 5th & 6th Sts.**

Zoning:

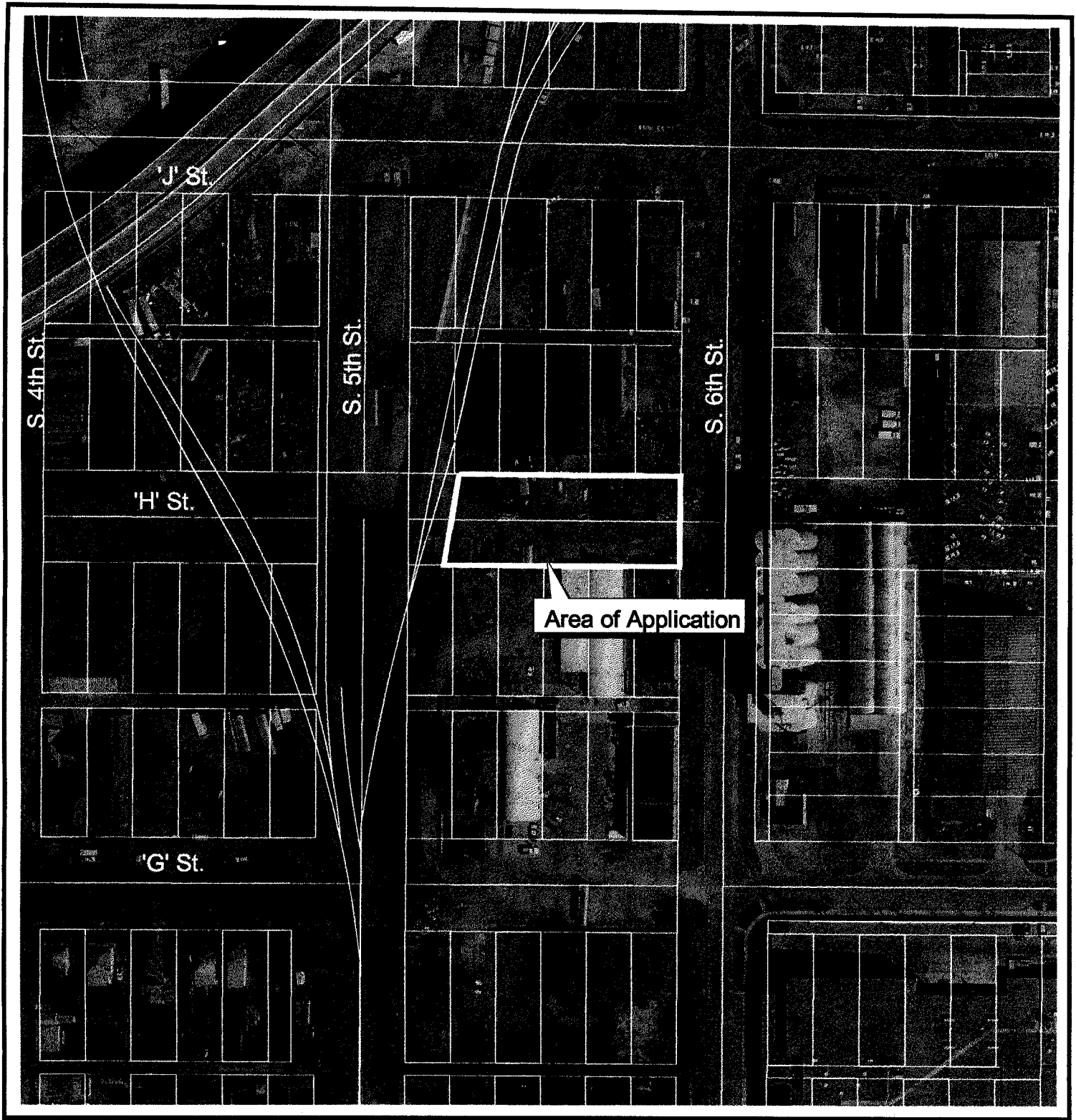
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
 Sec. 26 T10N R6E



'A' St.
 Sheet 1 of 2
 Date: 5/30/00
 Lincoln City - Lancaster County Planning Dept.

007



Street & Alley Vacation #00007
'H' St., between 5th & 6th Sts.



Sheet 2 of 2

Date: MAY 30, 00

Photograph Date: 1997 **008**
Lincoln City - Lancaster County Planning Dept.

Lincoln



Nebraska's Capital City

May 16, 2000

Lincoln City/Lancaster County
Planning Commission
Lincoln, Nebraska

RE: Vacating that portion of "H" Street from the west line of South 6th Street west to the railroad right-of-way.

Dear Ladies and Gentlemen::

The Department of Public Works and Utilities has received sufficient and proper petitions from TMCO Investments, owners of Lots 1 through 12, Block 142, Original plat City of Lincoln and Business Properties of Nebraska, owners of Lots 8 through 12, Block 133, Original plat City of Lincoln, to vacate the above described public right-of-way. Petitioners request this vacation for expansion of existing facilities.

The Public Works and Utilities Department is requesting the north half of the right-of-way be maintained as a permanent easement for an existing 36" X 40" storm sewer line and the Lincoln Electric System is requesting a permanent easement through the entire vacated area for existing and future facilities. The Public Works and Utilities Department is also requiring the petitioners to remove the existing street return at their own expense. Estimated cost for removal of this return is \$5,000.

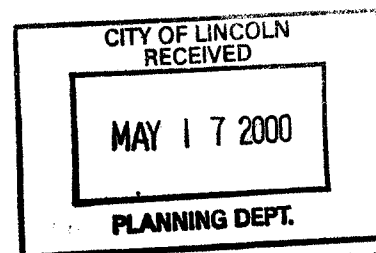
The Public Works and Utilities Department recommends approval of this proposed vacation with the above mentioned conditions. This vacation contains an area of 24,500 square feet, more or less.

Sincerely,

Byron Blum
Engineering Services

MES100011.BLB

cc: Allan Abbott
Ann Harrell
Kathleen Sellman
Mark Wullschleger
Roger Figard
Paul Malzer
Clint Thomas
Dana Roper



009

*** REQUESTOR: RHILL - HILL, RAY F. PLANNING ***

*** S Y S M I N B A S K E T P R I N T ***

MESSAGE ID: 171043 DATE: 05/30/00 TIME: 04:40pm PRIORITY: 000

TO: RHILL - HILL, RAY F.
PLANNER III
PLANNING

FROM: DBARTELS - BARTELS, DENNIS D.
CIVIL ENG. II
PUBLIC WORKS/UTILITIES
1001 N. 6th Street
LINCOLN, NE 68508

SUBJECT: H Street, 5th to 6th
In discussion with Building and Safety it was determined that fill has been placed in the portion that was requested to be vacated. No permithas been obtained to fill the right-of-way which is in the flood plain.The City will not issue a permit or give any permission to fill this street unless the street is vacated and the conditions of the vacation allow it.

Sent to: RHILL HILL, RAY F. (to)

MEMORANDUM

TO: Ray Hill

FROM: Nicole Fleck-Tooze 

RE: **Street/Alley Vacation #00006, S. 26th & 'E' Streets**
Street/Alley Vacation #00007, 'H' St. between 5th & 6th Streets

DATE: May 31, 2000

1. SAV #00006 for the vacation of a portion of 'E' Street is within the 100-year floodplain of Antelope Creek. SAV #00007 for the vacation of 'H' St. between 5th & 6th Streets is located within the 100-year floodplain of Salt Creek.
2. In February and April of this year, the retention of a conservation easement was recommended on two street/alley vacations proposed in the 100-year floodplain of Salt Creek:
 - i SAV #99005 by Lincoln Plating to vacate West 'E' Street between SW 6th and S. Folsom Streets was approved on February 22, 2000 with the City retaining a conservation easement to prohibit fill and restrict the vacated right-of-way to a parking lot or other open space uses.
 - ii SAV #98010 by Mike Grieger to vacate the alley north of West 'C' Street and west of SW 1st Street was denied on April 17, 2000.
3. In general, while retaining conservation easements over land within the floodplain may reduce the value, it can also be an effective way to preserve the flood storage capacity of the floodplain, especially when cumulative impacts are considered.
4. It would be consistent with other recent street and alley vacations proposed in the 100-year floodplain to retain a conservation easement to prohibit fill and restrict the vacated right-of-way to a parking lot or other open space uses.
5. The Comprehensive Plan includes the following language regarding floodplain conservation:

"As the City and County continue to grow and develop, flood plain regulation and stormwater management will become increasingly important. Maintaining the capacity of our flood ways and flood plains to contain and carry flood waters and prevent damage should be an important consideration in all planning and development" (p. 72).

"Extensive development within floodplains decreases the water retention capabilities of the land and can cause serious flooding downstream" (p. 153).

"Continue to regulate development in floodplains and floodways. Be prepared to respond to findings that suggest that current restrictions have off-site effects and are inadequate to protect property" (strategy, p. 145).

F:\FILES\PLANNING\FLOODPLNSAV00006.wpd

SAV. 00007

JUN 5 2000

PLANNING DEPT.

INTEROFFICE MEMORANDUM

TO: City Council Members FROM: Clinton W. Thomas

DEPARTMENT: City Council Office DEPARTMENT: Real Estate Division

ATTENTION: DATE: June 2, 2000

COPIES TO: Paul Malzer
Kathleen Sellman
Dana Roper SUBJECT: Vacation of H Street from west
line of South 6th Street west to
railroad right-of-way

The area was viewed and appeared as an unimproved street with minimal surfacing, which provided access and parking space for the businesses located on either side of the street. There was no observable evidence of utilities, however, Public Works has indicated the location of a storm sewer and asked for a Permanent Easement to the north half of the street be retained for that storm sewer. LES has asked for an easement over the entire area for any future electric line which might be installed. In further discussions with LES staff, they indicated a 30-foot wide easement centered on the centerline of the street which would overlap the storm sewer easement by 15 feet would be adequate.

The Planning Department has indicated they wish to retain a Conservation Easement over the entire area. However, on inspection of the property, it was noted that approximately 5 feet of fill had been placed over the westerly portion of the southerly half of the street to be vacated. It appears to this writer that the compacted fill has been raised to an elevation which would raise it out of the flood plain. The question then arises whether a Conservation Easement can or should be retained to an area which is no longer in the flood plain unless the individual who placed the fill is required to remove it.

It is assumed if the street is vacated it will be divided equally between the 2 abutting property owners. Since a portion of the area to the south has been filled and may not be encumbered with easements of any kind, the 2 areas will be treated differently. Obviously, once the area is assembled into the abutting property, it will take on the appearance and value of the parcel to which it is assembled. However, the imposition of utility and conservation easements are estimated to reduce the value of the area encumbered by 90%. Land in this area is estimated at a value of \$2 to \$3/sq. ft. The underlying land is estimated at \$2.50 with value of the area encumbered by the easements estimated at \$0.25/sq. ft.

The value of the north half of the street is considered to be as follows:

$$12,250 \text{ sq. ft.} \times \$0.25/\text{sq. ft.} = \$3,062.50 \text{ (called } \$3,000.00\text{)}$$

If the City retains a Conservation Easement to the entire south half of the street as well, the area would be considered to have a value equal to that of the north side. However, if the fill is not removed and a Conservation Easement is not retained to the area which has been filled, it is recommended the combined utility easements be limited to the northerly 65 feet of the street to be vacated. This would leave the southerly 35 feet of the area unencumbered by utility easements. The westerly portion of this, estimated to be approximately half of the south half of the street, would have no encumbering easements at all. This area is calculated at 4, 287.5 sq. ft. and estimated to

have a value of \$1/sq. ft. The remaining 7,962.5 sq. ft. encumbered with conservation and utility easements is estimated to have a value of \$0.25/sq. ft. The calculations for the estimated value of the south half of the street under this scenario are as follows:

7,962.5 sq. ft. X	\$0.25/sq. ft.	=	\$1,990.63
4,287.5 sq. ft. X	\$1.00/sq. ft.	=	<u>\$4,287.50</u>
TOTAL			\$6,278.13 (called \$6,250.00)

Public Works has also asked for the removal of the street return on the west side of South 6th Street at an estimated cost of \$5,000.00. If this is done, the amount would presumably be split between the abutting property owners and deducted from the estimated value of their portion of the street.

In summary, the estimated value of the street is as follows:

North half of the area to be vacated - \$3,050.00

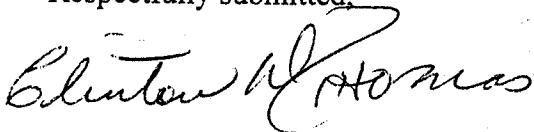
South half of the area to be vacated -

Scenario 1: with conservation and utility easements over the entire area - \$3,050.00

Scenario 2: with fill left in place and conservation and utility easements restricted to the north 15 feet and unfilled portion of the street - \$6,250.00

As previously stated these values would be reduced by the proportionate share of the cost of the removal of the street return should it actually be taken out.

Respectfully submitted,



Clinton W. Thomas

Certified General Appraiser #990023

dge